

## ARTICLE X

### PERMISSIBLE USES

#### **Section 146 Table of Permissible Uses.**

The Table of Permissible Uses (see pages 10-6 through 10-16) should be read in close conjunction with the definitions of terms set forth in Section 15 and the other interpretative provisions set forth in this article.

#### **Section 147 Use of the Designations Z, S, C in Table of Permissible Uses.**

(a) Subject to Section 148, when used in connection with a particular use in the Table of Permissible Uses (Section 146), the letter "Z" means that the use is permissible in the indicated zone with a zoning permit issued by the administrator. The letter "S" means a special use permit must be obtained from the Board of Adjustment, and the letter "C" means a conditional use permit must be obtained from the Town Council.

(b) When used in connection with multi-family residential uses, the designation "ZC" means that such developments within the CD zoning district of two dwelling units or less must be pursuant to a zoning permit and developments of three or more units need a conditional use permit. Within all other zoning districts, such developments of four dwelling units or less must be pursuant to a zoning permit and developments of five or more units need a conditional use permit. (*Amended 1/99*)

#### **Section 148 Board of Adjustment Jurisdiction Over Uses Otherwise Permissible With a Zoning Permit.**

Notwithstanding any other provisions of this article, whenever the Table of Permissible Uses (interpreted in the light of Section 147 and the other provisions of this article) provides that a use in a nonresidential zone or a nonconforming use in a residential zone is permissible with a zoning permit, a special use permit shall nevertheless be required if the administrator finds that the proposed use would have an extraordinary impact on neighboring properties or the general public. In making this determination, the administrator shall consider, among other factors, whether the use is proposed for an undeveloped or previously developed lot, whether the proposed use constitutes a change from one principal use classification to another, whether the use is proposed for a site that poses peculiar traffic or other hazards or difficulties, and whether the proposed use is substantially unique or is likely to have impacts that differ substantially from those presented by other uses that are permissible in the zoning district in question.

#### **Section 149 Permissible Uses and Specific Exclusions.**

(a) The presumption established by this chapter is that all legitimate uses of land are permissible within at least one zoning district in the town's planning jurisdiction. Therefore, because

the list of permissible uses set forth in Section 146 (Table of Permissible Uses) cannot be all-inclusive, those uses that are listed shall be interpreted liberally to include other uses that have similar impacts to the listed uses.

(b) If a use cannot be interpreted by the administrator for inclusion in the Table of Permissible Uses (Section 146) as provided for in subsection (a), that use shall be prohibited. Section 146 (Table of Permissible Uses) shall not be interpreted to allow a use in one zoning district when the use in question is more closely related to another specified use that is permissible in other zoning districts.

(c) Without limiting the generality of the foregoing provisions, the following uses are specifically prohibited in all districts:

- (1) Any use that involves the manufacture, handling, sale, distribution, or storage of any highly combustible or explosive materials in violation of the town's fire prevention code.
- (2) Stockyards, slaughterhouses, rendering plants.
- (3) Use of a travel trailer as a temporary or permanent residence. (Situations that do not comply with this subdivision on the effective date of this chapter are required to conform within one year. See Section 130.)
- (4) Use of a motor vehicle parked on a lot as a structure in which, out of which, or from which any goods are sold or stored, any services are performed, or other business is conducted. (Situations that do not comply with this subdivision on the effective date of this chapter are required to conform within thirty days. See Section 130.)

*(Amended 5/29/90, 8/13/91)*

### **Section 150 Accessory Uses.**

(a) The Table of Permissible Uses (Section 146) classifies different principal uses according to their different impacts. Whenever an activity (which may or may not be separately listed as a principal use in this table) is conducted in conjunction with another principal use and the former use (i) constitutes only an incidental or insubstantial part of the total activity that takes place on a lot, or (ii) is commonly associated with the principal use and integrally related to it, then the former use may be regarded as accessory to the principal use and may be carried on underneath the umbrella of the permit issued for the principal use. For example, a swimming pool/ tennis court complex is customarily associated with and integrally related to a residential subdivision or multi-family development and would be regarded as accessory to such principal uses, even though such facilities, if developed apart from a residential development, would require a special use permit. *(Amended 1/99)*

(b) For purposes of interpreting subsection (a):

- (1) A use may be regarded as incidental or insubstantial if it is incidental or insubstantial in and of itself or in relation to the principal use;
- (2) To be "commonly associated" with a principal use it is not necessary for an accessory use to be connected with such principal use more times than not, but only that the association of such accessory use with such principal use takes place with sufficient frequency that there is common acceptance of their relatedness.

(c) Without limiting the generality of subsections (a) and (b), the following activities are specifically regarded as accessory to residential principal uses so long as they satisfy the general criteria set forth above:

- (1) Offices or studios within an enclosed building and used by an occupant of a residence located on the same lot as such building to carry on administrative or artistic activities of a commercial nature, so long as such activities do not fall within the definition of a home occupation.
- (2) Hobbies or recreational activities of a non-commercial nature.
- (3) Yard sales or garage sales, so long as such sales are not conducted on the same lot for more than three days (whether consecutive or not) during any ninety day period.

(d) Without limiting the generality of subsections (a) and (b), the following activities shall not be regarded as accessory to a residential principal use and are prohibited in residential districts:

- (1) Storage outside of a substantially enclosed structure of any motor vehicle that is neither licensed nor operational.
- (2) Parking outside a substantially enclosed structure of more than four motor vehicles between the front building line of the principal building and the street on any lot used for single-family detached dwellings, townhouse dwellings, or two-family dwellings. (*Proposed Amendment 1/99*)

### **Section 151 Permissible Uses Not Requiring Permits.**

Notwithstanding any other provisions of this chapter, no zoning, special use, or conditional use permit is necessary for the following uses:

- (1) Streets.
- (2) Electric power, telephone, telegraph, cable television, gas, water, and sewer lines, wires or pipes, together with supporting poles or structures, located within

a public right of way.

- (3) Neighborhood utility facilities located within a public right of way with the permission of the owner (state or town) of the right of way.

### **Section 152 Change in Use.**

(a) A substantial change in use of property occurs whenever the essential character or nature of the activity conducted on a lot changes. This occurs whenever:

- (1) The change involves a change from one principal use category to another.
- (2) If the original use is a combination use (~~26-000~~), the relative proportion of space devoted to the individual principal uses that comprise the combination use changes to such an extent that the parking requirements for the overall use are altered. (*Amended 1/99*)
- (3) If the original use is a combination use, the mixture of types of individual principal uses that comprise the combination use changes.
- (4) If the original use is a planned residential development, the relative proportions of different types of dwelling units change.
- (5) If there is only one business or enterprise conducted on the lot (regardless of whether that business or enterprise consists of one individual principal use or a combination use), that business or enterprise moves out and a different type of enterprise moves in (even though the new business or enterprise may be classified under the same principal use or combination use category as the previous type of business). For example, if there is only one building on a lot and a florist shop that is the sole tenant of that building moves out and is replaced by a clothing store, that constitutes a change in use. However, if the florist shop were replaced by another florist shop, that would not constitute a change in use since the type of business or enterprise would not have changed. Moreover, if the florist shop moved out of a rented space in a shopping center and was replaced by a clothing store, that would not constitute a change in use since there is more than one business on the lot and the essential character of the activity conducted on that lot (shopping center--combination use) has not changed. (*Admended 1/99*)

(b) A mere change in the status of property from unoccupied to occupied or vice-versa does not constitute a change in use. Whether a change in use occurs shall be determined by comparing the two active uses of the property without regard to any intervening period during which the property may have been unoccupied, unless the property has remained unoccupied for more than 180 consecutive days or has been abandoned.

(c) A mere change in ownership of a business or enterprise or a change in the name shall not be regarded as a change in use.

### **Section 153 Reserved.**

### **Section 154 Combination Uses.**

(a) When a combination use comprises two or more principal uses that require different types of permits (zoning, special use, or conditional use), then the permit authorizing the combination use shall be:

- (1) A conditional use permit if any of the principal uses combined requires a conditional use permit.
- (2) A special use permit if any of the principal uses combined requires a special use permit but none requires a conditional use permit.
- (3) A zoning permit in all other cases.

(b) When a combination use consists of a single-family detached residential subdivision that is not architecturally integrated (see Section 188) and two-family or multi-family uses, the total density permissible on the entire tract shall be determined by having the developer indicate on the plans the portion of the total lot that will be developed for each purpose and calculating the density for each portion as if it were a separate lot.

(c) When a combination use consists of a single-family detached, architecturally integrated subdivision and two-family or multi-family uses, then the total density permissible on the entire tract shall be determined by dividing the area of the tract by the minimum square footage per dwelling unit specified in Section 182.

### **Section 155 More Specific Use Controls.**

Whenever a development could fall within more than one use classification in the Table of Permissible Uses (Section 146), the classification that most closely and most specifically describes the development controls. *(Amended 1/99)*

### **Sections 156 and 157 Reserved.**